

## SECTION 10

### LABOR RELATIONS

#### 10-1. Labor Relations and Labor Standards Enforcement.

a. The prime contractor is responsible for resolving labor disputes and work stoppages.

b. The resident engineer is responsible for establishing and maintaining good relations with contractors and local contractor and labor organizations and acts promptly to avoid or reduce work stoppages which affect contracts. The resident engineer seeks voluntary agreement between management and labor to permit uninterrupted prosecution of contracts. The resident office avoids involving the Government in labor disputes.

c. The resident engineer does not take part in the adjustment of jurisdictional disputes between unions other than attempting to bring the parties in dispute together to settle their differences.

d. The resident engineer and staff make spot checks of prime contractors' and subcontractors' payroll copies, conduct regular employee interviews, and check wage rate and EEO postings.

#### 10-2. Equal Employment Opportunity.

a. The contractor must take affirmative action to ensure that applicants for employment and employees are treated without regard to their race, color, religion, sex, national origin, or handicapping condition. The contractor is also required to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veteran's status. In addition, the contractor is not to discriminate against any employee or applicant for employment because of physical or mental handicap regarding any position for which the individual is qualified.

b. In a conspicuous place available to employees and applicants for employment, the contractor must post notices provided by the contracting officer which set forth the provisions of the EEO clause as well as notices prescribed by

the Director, Office of Federal Contract Compliance Programs. The resident engineer ascertains whether the required notices are properly posted. These notices must include specific information regarding name(s) of contacts, location, and telephone numbers of an office or individuals who can assist with allegations of discrimination.

10-3. **Davis-Bacon Act.**

a. The Davis-Bacon Act stipulates that each laborer and mechanic employed on the contract work site must receive no less than the prevailing wage, including basic hourly rates and fringe benefits. The prevailing wage is determined by the Secretary of Labor and is included in each contract.

b. The various classifications of laborers and mechanics that may be employed at the work site are listed in the contract schedule of wage rates. Additional classifications require prior written approval of the contracting officer. The hiring of labor classifications by the contractor or subcontractors other than those included in the contract or approved by the contracting officer is not permitted at the job site. Requests for additional classifications must be submitted to the resident engineer utilizing DD Form 1565, Request for Authorization of Additional Classification and Rate. When the completed forms are submitted, the resident engineer checks them for completeness and ascertains the following:

(1) That the skill cannot be classified into one already contained in the applicable wage determination.

(2) That the classification is generally recognized in the area or construction industry.

(3) That the proposed wage rate, including any fringe benefits, conforms to the wage determination decision contained in the contract.

After the resident engineer determines that the form is complete, a final review has been accomplished, and all data is in compliance with (1), (2), and (3) above, the RE forwards the form to the district labor advisor for processing and approval. If the form is not in compliance with the above criteria and the resident engineer and the contractor cannot resolve the matter, the resident engineer submits the problem to the district labor advisor for resolution.

c. A copy of the contract schedule of minimum wage rates with a wage rate information poster must be posted at the job site in a conspicuous place that is accessible to all employees. Any approved additional classification forms must also be posted. The resident engineer ascertains that these items are posted.

#### 10-4. Overtime Compensation.

The Contract Work Hours Standards Act (Public Law 87-581) states that laborers and mechanics must be paid for all hours in excess of 8 hours a day or 40 hours a week, whichever is the greater number, at not less than one and one-half times their basic hourly rate of pay. When the contractor is not in compliance, the resident engineer assesses penalties which include assessments for each laborer or mechanic for every calendar day in which the employee is not properly compensated.

#### 10-5. Apprentices and Trainees.

a. A contractor may employ apprentices and trainees on construction projects only after submitting evidence that employees are registered in a training program accepted by a state apprenticeship and training agency recognized and approved by the U.S. Bureau of Apprenticeship and Training, or have been trained by the Bureau itself. The contractor is also required to submit written evidence of apprentice-journeymen ratios and wage rates, including fringe benefit payments established for this program in the project area. Upon receiving such submissions, the resident engineer may accept the ratios for compliance with the contract requirements.

b. When a contractor has classified employees as apprentices or trainees without complying with the above requirements, the classification is rejected. The contractor must pay such employees at the journeyman rate applicable to the classification of work they actually performed.

#### 10-6. Payrolls and Basic Records.

a. Weekly payroll copies and accompanying executed statements of compliance (may optionally use WH Form 347, Payroll) are submitted by the contractor, to include those of all subcontractors. The resident engineer ensures that all required payroll copies are received. ENG Form 3180, Contractor Payroll Record, is used to control receipt and review of payroll copies; these are regularly spot checked by the resident engineer or his

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staff to ensure compliance with the contractor labor standards provisions.

b. When payroll copies are delinquent, a monetary amount sufficient to cover labor performed during the time involved is withheld from partial payment estimates until the delinquent payroll copies have been received and determined to be in compliance.

c. When violations are detected on the payroll copies and are readily adjustable (amount of restitution per contractor is less than \$1,000 and violations are not willful), a letter is furnished to the contractor citing the discrepancies and the corrective action. When evidence of restitution is required, such evidence must be in one of the following forms:

(1) Statements signed by employees acknowledging receipt of the required restitution. Statements must indicate gross amounts of restitution, deductions, and net amounts.

(2) Photostatic copies of certified checks made payable to employees involved, copies of registered or certified mail receipts indicating that the checks were delivered to employees, and statements reporting gross amounts paid, deductions, and net amounts.

(3) Photostatic copies of both sides of cancelled checks made payable to and endorsed by employees involved and statements reporting gross amounts paid, deductions, and net amounts. When violations are not readily adjustable (involve restitution exceeding \$1,000 or are willful), the facts are submitted to the district labor advisor for resolution.

d. The resident engineer conducts contractor and subcontractor employee interviews to check the employer's compliance with the labor standards provisions of each contract. DD Form 1567, Labor Standards Interview, is used. The number of interviews conducted each week is determined by the number of employees performing work in each classification and the scope of the contract work. Interviews on a work site should provide a cross section of the work force, including employees of subcontractors, and should be held on a routine basis. Information obtained during the interviews is checked against the information reported on weekly payroll copies.

e. Self-employed contractors must report themselves as self-employed on their weekly payroll copies submitted to the resident engineer.

10-7. Copeland Act.

The Copeland Act of the Secretary of Labor lists certain permissible deductions from the wages of employees. These include deductions made in compliance with Federal and state income tax withholding provisions, Federal social security tax, contributions to approved funds established to provide health and welfare benefits, and pensions. Deductions for purposes other than those listed are prohibited unless specifically authorized by the Secretary of Labor.

10-8. Subcontractors.

Within 7 days of awarding any subcontract by the contractor or a subcontractor, the contractor must submit a statement with the name and address of the subcontractor and a summary description of the work subcontracted. This statement will also attest that the labor provisions required to be included in all subcontracts have been so incorporated. The Statement and Acknowledgment, SF 1413, will be used. The resident engineer makes certain that those forms are furnished, checked, and forwarded to the district.

10-9. Labor Disputes.

When a labor dispute, work stoppage, or threat of a work stoppage occurs, the resident engineer reports the facts to the district labor advisor by the most expeditious means and confirms the report by submitting a completed DD Form 1507, Work Stoppage Report. The district is kept informed of any significant changes in the situation as originally reported.

10-10. Labor Organization Representatives on Work Sites.

Labor organization representatives should be admitted to contract work sites to conduct union business (excluding organizing activities, collective bargaining discussions, and other matters not directly connected with the project being visited), provided that the visits will not interfere with the contract work nor violate safety or security regulations.